

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant: Modak et al
Serial. No: 10/633,204 Examiner: Choi, Frank I
Filed: July 30, 2003 Group Art Unit: 1616
For: COMBINATIONS OF ANTISEPTIC AND ANTIBIOTIC AGENTS
THAT INHIBIT THE DEVELOPMENT OF RESISTANT
MICROORGANISMS

**PETITION FOR AN UNINTENTIONALLY DELAYED
PRIORITY BENEFIT CLAIM UNDER 37 CFR 1.78(A)(3)**

MS Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants submit this Petition to correct an unintentionally delayed priority benefit claim under 37 CFR 1.78(a)(2). Applicants authorize the Petition surcharge in the amount of \$1,370.00 under 37 CFR 1.17(t) to be charged to our Deposit Account no. 02-4377.

Applicants' original priority claim was submitted, by way of a Preliminary Amendment, on July 30, 2003, on the filing date of the present application. The Preliminary Amendment filed July 30, 2003 included the application data for two priority applications, however inadvertently omitted reference to the relationship between two prior application i.e., International Patent Application No. PCT/US02/03087 being a continuation-in-part of U.S. Patent Application No. 09/755,755 filed February 2, 2001.

On October 3, 2005, in response to a non-final Office Action dated April 4, 2005, Applicants submitted a request to correct the Domestic Priority Data on the Filing Receipt dated March 24, 2004. Applicants then received a "Response to Request for Corrected Filing Receipt" dated October 17, 2005, indicating that the relationship between the priority applications must be supplied. On November 22, 2005, Applicants filed a response to the Notice indicating the correct relationship between the priority applications. On March 1, 2006, A Notice of Non-

Compliant Amendment was issued requiring a mark up of the correction to the priority language.
On Marcy 20, 2006, Applicants filed a marked-up version of the priority claim as follows:

CROSS REFERENCE TO RELATED APPLICATION(S)

This application is a continuation of PCT Application No. PCT/US02/03087 which was filed on January 31, 2002, and published on January 3, 2003 in English as International Publication No. WO 03/000303, which is a continuation-in-part of ~~and claims priority to~~ U.S. Patent Application No. 09/775,775, filed February 2, 2001, now issued as U.S. Patent No. 6,582,719, to ~~each of which priority is claimed and both of which are~~ [[all]] incorporated by reference in their entireties herein.

As noted above, Applicants had filed a Preliminary Amendment claiming priority to earlier filed application but inadvertently omitted reference to the relationship between two prior application i.e. International Patent Application No. PCT/US02/03087 being a continuation-in-part of U.S. Patent Application No. 09/775,775 filed February 2, 2001. Applicants state that the entire delay between the date the claim was due and the date the claim was (properly) filed was unintentional since the error in preliminary amendment filed July 30, 2003 was only recently noted after receiving the Response to Request for Corrected Filing Receipt mailed October 17, 2005.

Applicants request that the present Petition be accepted and the priority claim be entered. Applicants submit herewith the required fee of \$ 1,370.00 under 37 C.F.R. § 1.17(t). Applicants do not believe that any additional fee is required in connection with the submission of this document. Should any additional fees be required, the Commissioner is hereby authorized to charge any additional fees to Deposit Account 02-4377.

Respectfully submitted,

BAKER BOTTS L.L.P.

By: Sandra Lee

Sandra S. Lee
Patent Office Reg. No. 51,932

Lisa B. Kole
Patent Office Reg. No. 35,225

Attorney for Applicants

30 Rockefeller Plaza
44th Floor
New York, New York 10112
212-408-2500